

Congress of the United States
Washington, DC 20515

August 17, 2020

The Honorable Muriel Bowser
Mayor
District of Columbia
1350 Pennsylvania Avenue N.W.
Washington, D.C. 20004

Dear Mayor Bowser:

On August 1, 2020, the Metropolitan Police Department (MPD) arrested two protestors from Students for Life of America for writing “Black Pre-Born Lives Matter” in chalk on a public sidewalk.¹ In light of the District of Columbia allowing other political messages to remain on public property, this censorship by the District appears to be unconstitutional. We write to request more information about the District’s actions.

It is well-established law that government officials cannot favor some citizens’ free speech and censor others based upon the viewpoints expressed.² In early June 2020, left-wing agitators painted the phrase “Defund the Police” on a District street.³ The next day, employees from the District of Columbia’s Office of Public Works were there to repaint a District of Columbia flag defaced by the agitators, but “did not touch the ‘defund the police’ message” on the street.⁴ Indeed, the District has only recently paved over the “Defund The Police” message, more than two months after it was painted.⁵

In contrast, MPD officers reportedly warned individuals from Students for Life of America that they could not write “Black Pre-Born Lives Matter” in chalk on a public sidewalk and that they would be detained if they did so.⁶ When two members of the group began writing

¹ Emily Davies, *Two protesters arrested while chalking ‘Black Pre-Born Lives Matter’ on sidewalk*, Wash. Post (Aug. 1, 2020), https://www.washingtonpost.com/local/two-protesters-arrested-for-chalking-black-pre-born-lives-matter-on-sidewalk/2020/08/01/6d966d90-d41f-11ea-9038-af089b63ac21_story.html .

² *See, e.g.,* Police Department of Chicago v. Mosley, 408 U.S. 92, 95 (“[A]bove all else, the First Amendment means that the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.”).

³ Rebecca Tan, et al., *Protesters paint ‘Defund the police’ right next to D.C.’s ‘Black Lives Matter’ mural*, Wash. Post (June 7, 2020), <https://www.washingtonpost.com/dc-md-va/2020/06/07/dc-black-lives-matter-defund-police/> .

⁴ *Id.*

⁵ Frank Miles, *‘Defund the Police’ message in DC mural being repaved*, Foxnews.com (Aug. 12, 2020), <https://www.foxnews.com/us/defund-the-police-mural-dc-being-repaved> .

⁶ Davies, *supra* note 1.

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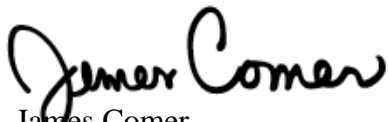
the pro-life message in chalk, the MPD officers arrested them.⁷ The District's decision to allow some political messages to be painted or marked on public property but not others suggests that the District may be unconstitutionally discriminating against speakers on the basis of the viewpoints they express.

To ensure that the Committees have a better understanding of whether the District of Columbia is uniformly respecting the First Amendment rights of all citizens, we ask that you arrange for a staff-level briefing about the District's discrimination against the Students for Life of America. In addition, to allow the Committees to fully understand the sequence of events, we request that you produce all documents and communications between June 1, 2020 and the present referring or relating to the arrest of the individuals associated with the Students for Life of America on August 1, 2020. Please provide these documents by August 24, 2020, and arrange for briefing to occur by August 26, 2020.

The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. The Committee on the Judiciary has jurisdiction over matters concerning civil liberties and Constitutional law under House Rule X.

If you have any questions and to schedule the briefing, please contact Oversight Committee staff at (202) 225-5074 and Judiciary Committee staff at (202) 225-6906. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer
Ranking Member
Committee on Oversight and Reform



Jim Jordan
Ranking Member
Committee on the Judiciary

⁷ *Id.*

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Chip Roy
Ranking Member
Subcommittee on Civil Rights
and Civil Liberties



Mike Johnson
Ranking Member
Subcommittee on the
Constitution, Civil Rights
and Civil Liberties

cc: The Honorable Carolyn B. Maloney, Chairwoman, Committee on Oversight and Reform

The Honorable Jerrold L. Nadler, Chairman, Committee on the Judiciary

The Honorable Jamie Raskin, Chairman, Subcommittee on Civil Rights and Civil
Liberties

The Honorable Steve Cohen, Chairman, Subcommittee on the Constitution, Civil Rights
and Civil Liberties